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# America Is a Republic, Not a Democracy

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*America is a republic and not a pure democracy. The contemporary efforts to weaken our republican customs and institutions in the name of greater equality thus run against the efforts by America's Founders to defend our country from the potential excesses of democratic majorities. American republicanism and the ordered liberty it makes possible are grounded in the Federalists' recognition that non-majoritarian parts of the community make legitimate contributions to the community's welfare, and that preserving these contributions is the hallmark of political justice. But, the careful balance produced by our mixed republic is threatened by an egalitarianism that undermines the social, familial, religious, and economic distinctions and inequalities that undergird our political liberty. Preserving the republican freedoms we cherish requires tempering egalitarian zeal and moderating the hope for a perfectly just democracy.*

Contrary to popular belief, America is not, nor was it meant to be, a pure democracy. America is a republic. Nevertheless, more and more voices today are calling for America to become a direct democracy.

A 2017 Pew Research survey found that 67 percent of those Americans polled considered a system in which citizens voted directly on "major national issues" to be a good thing.[1] The National Citizens Initiative for Democracy, sponsored by former Senator Mike Gravel (D–AK) and

endorsed by the likes of Noam Chomsky and the late Howard Zinn, calls for direct democracy through the creation of an independent "Legislature of the People," which would allow American citizens to amend the Constitution directly and pass laws of their own choosing, bypassing both state and federal legislatures in the process. Tom Steyer, in his bid to become the Democratic presidential nominee, called for something similar. In the spirit of ever more democracy, he advocated the use of national referenda on two major policy debates a year and repeatedly attacked the Electoral College as undemocratic.[2]

Indeed, the calls to abolish or circumvent the Electoral College in the selection of our chief executive represent the most visible sign of this democratic antipathy to our republican institutions. Senator Brian Schatz (D–HI), who introduced a bill to abolish the Electoral College, described it as "undemocratic and radical," and called eliminating it "an unassailably logical evolution of our Constitution."[3]

Similar hostility to the pillars of our republic in the name of more democracy is found across our political landscape: in the way many states rely on ballot initiatives to effect public policy; in the hostility to procedural limits that inhibit Congressional majorities from having their way; and in the increased dissatisfaction with the efficiency and responsiveness of our deliberative political institutions.[4] As a result, there is an increased interest in non-republican "solutions" to any obstacles to more democracy, whether it be endorsing Congressional term-limits, scrapping the Senatorial

1. Richard Wike, Kate Simmons, Bruce Stokes, and Janell Fetterolf, "Globally, Broad Support for Representative and Direct Democracy," Pew Research Center, October 16, 2017, https://www.pewresearch.org/global/2017/10/16/democracy-widely-supported-little-backing-for-rule-by-strong-leader-or-military/#many-publics-want-a-direct-say (accessed April 4, 2020).
2. Ben Christopher, "Tom Steyer Wants to Fix American Politics by Making it Californian," CalMatters, July 11, 2019, https://calmatters.org/blogs/california-election-2020/2019/07/tom-steyer-presidential-bid-california-ideas-for-country-politics-direct-democracy/ (accessed April 4, 2020).
3. Such a view seems to be a prerequisite for leading Democrats. Many of those Democrats who recently sought their party's presidential nomination made the abolition of the Electoral College, in the name of greater equality, a formal part of their platforms. Explaining his opposition to the Electoral College, Senator Bernie Sanders (D–VT) said "[i]t is hard to defend a system in which we have a president who lost the popular vote by three million votes." Alexandra Hutzler, "Bernie Sanders Joins Effort to Abolish Electoral College: 'We Have a President Who Lost the Popular Vote by 3 Million Votes'," *Newsweek*, July 12, 2019, https://www.newsweek.com/bernie-sanders-abolish-electoral-college-1448949 (accessed April 3, 2020). Senator Elizabeth Warren (D–MA) opposed it on the grounds that "[e]veryone's vote should count equally—in every election—no matter where they live...your power in our democracy shouldn't be determined by where you live." "I just think this is how a democracy should work," Warren claimed. Warren Democrats, "Get Rid of the Electoral College," Warren Democrats, March 19, 2019, https://elizabethwarren.com/plans/electoral-college (accessed April 3, 2020). The movement to circumvent the Electoral College enjoys increased momentum with the spread of the National Popular Vote Interstate Compact (NPVIC) that seeks to "equalize [individuals'] votes among states across the country." According to John Koza, the chairman of the NPVIC, under its plan "[e]very vote of every voter in every state would count directly towards the presidential candidate that voter wants see to be president, so it would make every voter in every state equal." Tess Bonn, "Leader Behind Popular Vote Initiative Says Plan Will Make Every Voter 'Equal'," *The Hill*, March 11, 2019, https://thehill.com/hilltv/rising/433498-leader-behind-national-popular-vote-initiative-says-plan-will-help-equalize (accessed April 4, 2020).
4. Yascha Mounk, "America is Not a Democracy: How the United States Lost the Faith of Its Citizens—and What It Can Do to Win Them Back," *The Atlantic*, March 2018, https://www.theatlantic.com/magazine/archive/2018/03/america-is-not-a-democracy/550931/ (accessed March 30, 2020).

filibuster, expanding the number of justices on the U.S. Supreme Court, or developing more effective and immediate ways to express the will of the majority, such as quadratic, ranked-choice, and digital voting—anything to liberate more fully the direct will of the people.

America's Founders carefully thought through the problems of direct democracy and explicitly rejected this model—and for good reason. They saw that because ancient democracies lacked any social or institutional forces that could check, refine, or moderate the will of the majority, they were prone to great instability, riven by factionalism, and subject to the passions and short-sightedness of the public. Direct democracies were thus vulnerable to tyranny.

American republicanism, by contrast, offers protections from the instability, rashness, impetuosity, and social and political tyranny of democratic politics because it recognizes that the majority does not equal the whole of the community. Republicanism recognizes the valid contributions to the welfare of the community by non- and even counter-majoritarian parts of the community. Indeed, justice demands that, even in a nation rooted in popular consent, non- and counter-majoritarian forces must be blended together. In this way, republicanism protects the minority from unjust majorities and secures the conditions for the political and social freedoms that are the true goal of the American revolution.

But this is not all. As Tocqueville correctly foresaw, the limitless passion for equality—the root cause for seeking direct democracy—undermines respect for all of those social, familial, civic, and religious institutions that separate individuals from one another, establish hierarchies, dictate codes of behavior, and, most importantly, help us preserve our liberties. To advocates, this pursuit of ever more equality represents a panacea, a "one-size-fits-all" solution, to the various political conflicts we face. In promoting greater equality, they would impose a single, uniform view of justice upon a republican order built on the recognition that the political community is more than just the majority of its citizens. Our republic is built on the recognition that no single part of the community has a monopoly on justice. Genuine political justice therefore requires tending to the legitimate needs and contributions of a community's non-majoritarian elements and preserving the social, familial, civic, and religious practices that define them. Given the importance of such practices to human flourishing, the recovery of republicanism means the recovery of our humanity.

## Republics, Not Democracies

The effort to recover an appreciation of our republican character must first confront the fact that for most Americans the two terms have become indistinguishable, each signifying the same thing: government by popular consensus.[5] But while a republic draws on the people for its legitimacy, it does not valorize the majority or identify the majority with the whole of the political community.

The political institutions peculiar to republicanism derive from the insight that there is more to the health and well-being of a political community than the wishes of the majority of its citizens. Americans today confuse republicanism with democracy because they have forgotten, and our educators no longer remind them of, the non- and even counter-majoritarian rationale for our distinctive political institutions. Of course, this amnesia about republicanism is not simply due to non-existent or ineffective civics curricula. Its underlying cause is an insatiable love of democracy that seeks to apply its egalitarian principle to the family, education, social and religious life, and finally to the norms, practices, and institutions that define who we are as a republic.

Those who demand that we become more democratic forget that for the better part of the Western political tradition, republicanism, not democracy, served as the model of political health and excellence. Indeed, up until the beginning of the 19th century, European nations and their leaders viewed the republics of ancient Sparta and Rome, and not democratic Athens, as models worthy of emulation. This preference for republicanism over and against democracy was especially pronounced in America's Founding political documents and in the numerous writings that justified and explained them. The word "democracy" is found neither in the Declaration of Independence nor in our Constitution. The term "republic," however, does appear in the Constitution.[6]

This preference for republicanism over democracy stems largely from the fact that ancient democracies, rooted in popular consent, were also vulnerable to the passions and shortsightedness of popular rule. Thus, Madison writes, lamenting the popular governments of the ancient world:

5. Ryan McMaken, "Stop Saying 'We're a Republic, Not a Democracy'," Mises Wire, November 3, 2017, https://mises.org/wire/stop-saying-were-republic-not-democracy (accessed March 15, 2020). McMaken's argument rests on the fallacy that the mere existence of representative institutions is sufficient for a modern democracy to qualify as a republic in the sense our Founders intended. But if republican institutions have been coopted to serve purely democratic purposes, as they have been in many European countries, then they no longer serve their intended non- and counter-majoritarian functions. As such, they cease to be republican.

6. United States Constitution, Article IV, sec. 4.

> [it] is impossible to read the history of the petty republics of Greece and Italy without feeling sensations of horror and disgust at the distractions with which they were continually agitated, and at the rapid succession of revolutions by which they were kept in a state of perpetual vibration between the extremes of tyranny and anarchy. If they exhibit occasional calms, these only serve as short-lived contrasts to the furious storms that are to succeed. If now and then intervals of felicity open to view, we behold them with a mixture of regret, arising from the reflection that the pleasing scenes before us are soon to be overwhelmed by the tempestuous waves of sedition and party rage. If momentary rays of glory break forth from the gloom, while they dazzle us with a transient and fleeting brilliancy, they at the same time admonish us to lament that the vices of government should pervert the direction and tarnish the luster of those bright talents and exalted endowments for which the favored soils that produced them have been so justly celebrated.[7]

These governments were tumultuous because they supplied no check on the people. They had no mediating institutions that could filter or delay the majority's impulses. For instance, during the Peloponnesian War between Athens and Sparta (431 BC–404 BC), the Athenian assembly voted in favor of Alcibiades' outrageously daring plan to conquer Sicily. This plan, on its own, would prove tremendously risky for the Athenians for numerous reasons, not the least of which was that the massive expedition, despite being sumptuously outfitted, still lacked the cavalry forces necessary to counter those of their enemies because the oligarchic elements in the city, who would normally be counted on to contribute the requisite horses and knights, silently opposed the campaign. And they were silent in their opposition because they feared for their lives and their property in the face of the democratic mania for the expedition.[8] Without a voice in the assembly to represent vigorously the interests of the oligarchic faction, the Athenian *demos* (the majority) was allowed to proceed under the mistaken belief that their particular wishes and views represented the entirety of the city. Had the Athenian assembly employed representation, with the *protection* of diverse views that it entails, the wisdom of the oligarchic faction might have saved the city from the catastrophic defeat to which its democratic ignorance subsequently doomed it.

7. James Madison, *The Federalist No.* 9, https://avalon.law.yale.edu/18th_century/fed09.asp (accessed April 13, 2020).
8. For an account of this assembly, see Book 6, chaps. 7 through 26 in *The Landmark Thucydides: A Comprehensive Guide to The Peloponnesian War*, edited by Robert B. Strassler with an introduction by Victor Davis Hanson (New York: Free Press, 1996).

Ancient democracies like Athens, what Madison calls "pure" democracies, could engage in this kind of behavior because they guaranteed in principle the right of each citizen to exercise directly the powers of government. As Madison states, "in a democracy, the people meet and exercise the government in person; in a republic, they assemble and administer it by their representatives and agents. A democracy, consequently, will be confined to a small spot."[9] Again, the test case for this is democratic Athens. There the largest power was the assembly (*ekklessia*) in which some 30,000 male citizens were entitled to participate. It was in this body that the citizens of Athens deliberated over and passed laws regarding peace, war, empire, citizenship, and taxes. Of course, the Pnyx, the small open-air, rocky outcropping where the assembly met, could only hold around 6,000 citizens. But every 10 days, these 6,000 citizens would gather to consider an agenda that had been prepared for it by an elected council of 500 citizens (*boule*), each of whom served terms of one year. Individual citizens were allowed to come forward in the assembly and either propose motions on the basis of the agenda supplied by the council or deliver speeches advocating, modifying, or contesting them.[10] There were no procedural rules either for these speeches or for the behavior of the audience, which meant that assembly meetings could get raucous and violent depending on both the particular speaker and the mood of fellow citizens.[11] In the end, the majority's will on matters of state was registered through a raised-hand vote, with the outcome depending on the persuasiveness of a particular speaker, which may have flowed from his particular rhetorical gifts, his personal reputation, or his ability to direct the passions of his listeners.

The decisions rendered by such an assembly were absolute and there was no higher authority governing it. They were not even bound by precedent; the assembly could undo in one meeting what it had decreed the week before. With no outside authority to check their judgments, these 6,000 Athenians were free to make and act on whatever fickle or dangerous

9. James Madison, *The Federalist* No. 14, https://avalon.law.yale.edu/18th_century/fed14.asp (accessed April 13, 2020). In an earlier formulation, Madison defines a pure democracy as "a society consisting of a small number of citizens, who assemble and administer the government in person." James Madison, *The Federalist* No. 10, https://avalon.law.yale.edu/18th_century/fed10.asp (accessed April 13, 2020).
10. The only public officials present in the assembly were there to oversee the ritual sacrifices that opened the assembly and to ensure the orderly selection of speakers and the recording of votes. But these were different for each meeting and possessed no real formal powers. For a general overview of the structure and operation of Athenian democracy, see Alan L. Boegehold's brief chapter "The Athenian Government in Thucydides" in *The Landmark Thucydides*, pp. 577–582.
11. Informed by such an insight, Madison could thus write in *The Federalist* No. 55 that "[i]n all very numerous assemblies, of whatever characters composed, passion never fails to wrest the sceptre from reason. Had every Athenian citizen been a Socrates; every Athenian assembly would still have been a mob." James Madison, *The Federalist* No. 55, https://avalon.law.yale.edu/18th_century/fed55.asp (accessed April 13, 2020).

decisions.[12] And make them they did, whether it was the decision to execute some of their generals for failing to collect the wrecks of shipwrecked sailors after the victory at Arginusae (406 BC),[13] or the decision to kill all the adult males of the rebellious city of Mytilene (427 BC), (a decision that they revoked the next day).[14] Madison may thus have had more than the Athenians' execution of Socrates in mind when, in describing the fickleness of their assembly, he noted that these citizens were free to decree hemlock for some of their citizens one day and erect statues to them the next.[15]

Athens was the freest of the ancient Greek city-states. But without the necessary checks afforded by republican institutions to protect the city from its majoritarian vices, this unbounded democracy produced a history filled with factional strife, revolution, regime change, political murder, and, in some cases, tyranny. The reasons for this are simple. In such a democracy, writes Madison, a

> common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths.[16]

In this society, once the people's passions have been agitated, there is little that can be done to extinguish them.

A republic mitigates these difficulties because, while it is literally a "thing of the people," it is not a "thing of the many." In other words, this "thing of the people" could only become synonymous with "the commonwealth" because it deliberately incorporates into its constitution the voices and interests of all of the various parts that make it up, and thus the many *and* the few, the rich *and* the poor, the educated *and* the unlettered, and the soldiers, craftsmen, and farmers. By doing so, it implicitly concedes that

12. Writing two millennia later on the dangers of this kind of unchecked majoritarian rule, Tocqueville observes that "to give all power to the majority that represents the people…is the language of a slave." "As for me," Tocqueville, continues, "I cannot believe it; and the power to do everything that I refuse to any one of my fellows, I will never grant to several." Alexis de Tocqueville, *Democracy in America*, edited by Eduardo Nolla and trans. by James T. Schleifer (Indianapolis: Liberty Fund, 2012), Vol. 1, Part 2, chap. 7, p. 411.
13. See *The Landmark Xenophon's Hellenika*, Robert B. Strassler, ed., and trans. by John Marincola (New York: Free Press, 2010), Book 1, chaps. 6 and 7.
14. *The Landmark Thucydides*, Book 3, chaps. 36 and 49.
15. James Madison, *The Federalist* No. 63, https://avalon.law.yale.edu/18th_century/fed63.asp (accessed April 13, 2020).
16. James Madison, *The Federalist* No. 10, https://avalon.law.yale.edu/18th_century/fed10.asp (accessed April 13, 2020).

the interests of the many, while important, are not simply the same as the common good; for a republic, securing the common good reflects the proper balance of these distinctive and, at times, competing elements of the political community as dictated by political justice.

Republics can bring together these potentially discordant voices because they, unlike direct democracies, employ the principle of representation. Thus, in *Federalist* No. 39, when Madison defines a republic, he stresses that it can, but need not, be directly dependent on the consent of the governed. A republic is:

> a government which derives all of its powers directly or indirectly from the great body of the people, and is administered, for a limited period, or during good behavior. It is *essential* to such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it.... It is sufficient for such a government that the persons administering it be appointed, either directly or indirectly, by the people.[17]

This recourse to representation makes it possible for modern republics to govern vast territories and large populations (conditions essential to the preservation of civil liberty), which will be explored more fully below. What needs to be stressed here is that by insisting on representation in the American scheme, Madison concedes that *popular rule cannot by itself secure ordered liberty under the law*. For Madison and his fellow Federalists, neither government nor society should be reducible to the will of the majority; "majority" does not equal "all." Nor does it always equal "good." Madison and Hamilton both knew that to preserve public goods like internal stability and political liberty, non- or even counter-majoritarian political bodies are necessary to preserve the republic from its worst vices. Or, as Martin Diamond puts it, the Founders wanted to make the republic decent despite its being democratic.[18]

In the principle of representation then, our Founders identified a kind of power that draws authority from the people while being able to act independently of and against their majoritarian excesses. Properly structured, representative bodies will refine and enlarge the views of their

17. James Madison, *The Federalist* No. 39, https://avalon.law.yale.edu/18th_century/fed39.asp (accessed April 13, 2020).

18. Diamond's statement, drawn from his essay "The Revolution of Sober Expectations," bears quoting in full: "Contrary to our too complacent modern perspective regarding democracy, which assumes that a government cannot be decent unless democratic, our Founding Fathers, skeptically, sensibly, and soberly were concerned how to make this government *decent even though democratic*." Martin Diamond, *As Far as Republican Principles Will Admit: Essays by Martin Diamond* (Lanham, MD: American Enterprise Institute, 1992), p. 220 (italics in the original).

constituents, apply a brake to their impetuous decisions, inject reason into their impassioned debates, and, when necessary, make far-sighted, if unpopular, decisions with a view to the public good.[19] Crafting such an institution reflects more than practical political wisdom; it requires a sober assessment of the limits to what can be justly achieved in political life.

**The "Mixed" Republic of Aristotle.** Madison looked to the most famous republic in Western political history for historical evidence supporting this sober assessment. The Roman Republic's successful mixture of monarchic, aristocratic, and democratic elements was the product of a long and often bloody experience, depicted especially in the works of Livy and Polybius.[20] But the theoretical justification of a regime that incorporates monarchy, aristocracy, and democracy can be credited to ancient Greek thought, especially as found in Aristotle's *Politics*.

Aristotle explicitly addresses the constitutional make-up of this "mixed regime" (or what he terms a "polity") in Book 4 of *The Politics*. But he provides the theoretical justification for such a regime at the end of Book 3.[21] According to Aristotle, all cities are made up of at least two factions, the "democrats" who are numerous but poor, and the "oligarchs," who are few but rich. Virtually all domestic political conflict can be reduced to the clash between these two parties. This is because both factions claim to deserve to rule their community on the ground that they contribute most to the welfare of the community: the democrats because they contribute their lives and liberty to the defense of the community through service in the infantry and the navy, and the oligarchs because their wealth helps the city's economy, religious observance, and military defense thrive.

It is important to stress that, for Aristotle, both parties advance these claims on the basis of justice. This conflict over rule is not merely a power grab, nor is it just an economic squabble between the haves and have-nots.[22] The democrats and oligarchs make claims to rule on the basis of their superior justice because they understand political rule to be a great honor

19. On the virtues of such a representative body, Tocqueville writes, that "it is sufficient for the popular will to pass through this chosen assembly in order, in a sense, to be transformed and to emerge clothed in more noble and more beautiful forms. So the men elected in this way always represent the governing majority of a nation; but they represent only the elevated thoughts that circulate in its midst, the generous instincts that animate it, and not the small passions that often trouble it and the vices that dishonor it." Tocqueville, *Democracy in America*, p. 321.

20. Titus Livy, *The History of Rome: Books 1–5*, trans. and introduction by Valerie M. Warrior (Indianapolis: Hacket Publishing Company, 2006) and Polybius *The Histories*, trans. by Robin Waterfield (Oxford: Oxford University Press, 2010). See especially Book 6, chap. 5, for Polybius's famous discussion of the mixed character of Rome's republican constitution.

21. Aristotle, *The Politics*, trans. and introduction by Carnes Lord (Chicago: University of Chicago Press, 2013).The following discussion is based on chaps. 8–11 of Book 3.

22. In Book 2, chap. 7, of *The Politics*, Aristotle famously claims that no man becomes a tyrant simply to come in from the cold. Men, in other words, do not run the risks to life and limb frequently involved in political conflict simply to ensure that they have relish for their meats or slaves to draw a hot bath.

and that to be denied political rights is a profound insult, the equivalent of reducing one to a slave. The fact that this dispute is over the *just* basis of political rule is what makes factional conflict so difficult to resolve. Madison knew this well. "Justice," he wrote, "is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit."[23]

Precisely because the democrats and oligarchs understand political rule to be an honor and the political community to be a human association that is noble and worthy of our greatest devotion, political life has to be something larger or more dignified than a mere military alliance (as defined by the democratic view) or a business partnership (as defined by the oligarchic view). The claim to rule most consistent with the view of political life as a matter of dignity and honor is that put forward by human beings of great moral and intellectual virtue. After all, the rule of moral and intellectual virtue ennobles the community. Their virtue would allow them to produce the genuine well-being of others and the example of virtuous rulers provides a model for others to follow, making citizens more just human beings. Thus, working from the claims of the rich and the poor, Aristotle arrives at the rule of one man, or a select group of men, *on the basis of their outstanding virtue*.

But as Aristotle also knew, political power could not be justifiably limited to such a tiny cabal, not only because such a group would be too small to protect itself from its subjects or from foreign enemies (which it would) or because the wealthy and the poor, denied the honor of political rights, would refuse to contribute their wealth and numbers to the needs of the city (which they would), but because denying them a meaningful role in the political order would be unjust. And it would be unjust precisely because the rule of virtue by itself is insufficient; it needs the goods that the wealthy and the people provide in order to achieve its ends. This means that incorporating the wealthy and the people into the regime is not simply a concession to the strength conferred by their superior wealth and numbers. Incorporating the wealthy and the people into the same regime reflects the insight that political justice is a compound thing, made up of distinct and, at times, competing interests. And it reflects the view that while all factions within a political community understand themselves to be pursuing justice, they each of them speak of or seek only a part of justice.

This recognition that no one faction has a monopoly on justice offers a useful corrective to those who think that more equality and more democracy are the panaceas for whatever might ail us, and who thus try to weaken

23. James Madison, *The Federalist* No. 51, https://avalon.law.yale.edu/18th_century/fed51.asp (accessed April 13, 2020).

the republican protections of our freedom so that they can impose on everyone else their uniform view of justice. Recognizing that parties only speak to a *part* of justice means acknowledging the legitimate existence of rival factions that may well speak to another part of justice. It means recognizing that rival factions may make genuine contributions to the welfare of the community and should therefore not be demonized as enemies to be eliminated.[24] And it means learning to embrace moderation, that art of self-limitation so crucial to the responsible exercise of political liberty.

Of course, to make all of this possible, the political means through which one can bring together in one government the representatives of necessary, but often antagonistic, elements of the community in a way that preserves the goods they make possible while tempering the vices to which they are prone must be discovered. This discovery is the specific genius of the American Founders.

**America's "Mixed" Republic.** Like Aristotle, Madison and Hamilton understood why incorporating contentious forces within our political institutions was such a necessity: Both political reality, which is characterized by diverse interests, and the demands of political justice, which is not a simple but a compound thing, mandate it. Madison acknowledged the difficulties inherent in effecting such incorporation, specifically of combining "the requisite stability and energy in government, with the inviolable attention due to liberty and to the republican form." It is difficult to combine them "together in their due proportions" because the:

> genius of republican liberty seems to demand on one side, not only that all power should be derived from the people, but that those intrusted with it should be kept in dependence on the people, by a short duration of their appointments; and that even during this short period the trust should be placed not in a few, but a number of hands.[25]

And yet, on the other side, the political stability and energy a republic needs require its representatives to enjoy significant independence from the wills of the people. They also require the agents responsible for such stability and energy to be few in number.

24. In a recent piece on the place of Islam in France today, Pierre Manent highlights this aspect of republicanism. By having to fix "the portion and place of French Islam to the limits it has attained today" he argues that the French can "accomplish two goals that are equally important and urgent." Manent states, that, "vis-a-vis the interior, our internal or common life, we regain the all-important awareness of the fact that the components of the republic are not only rights-bearing individuals, but groups or associations, temporal and spiritual, with distinct customs and ways of life, whose equilibrium one is obliged to preserve." Pierre Manent, "Islam in France," April 1, 2020, https://lawliberty.org/islam-in-france/?utm_source=LAL+Updates&utm_campaign=3d72121236-LAL_Daily_Updates&utm_medium=email&utm_term=0_53ee3e1605-3d72121236-27220651 (accessed April 10, 2020).
25. James Madison, *The Federalist* No. 37, https://avalon.law.yale.edu/18th_century/fed37.asp (accessed April 13, 2020).

The Constitution that Madison and Hamilton defended satisfies the needs of republican liberty primarily through a legislative chamber (House of Representatives) whose smaller districts and two-year terms ensured that its numerous Members would be closely bound to their constituents and thus interested in defending the will of the people. To check this body's potential majoritarian excesses, they borrowed from the ancient republics and devised a senatorial body that would share in legislation. By limiting Senators to two per state and granting them term lengths of six years, the smaller American Senate would have institutional incentives to behave like the aristocratic classes of old while still relying (loosely) on the people for its authority.[26]

One can find throughout the Constitution similar efforts to effect this balance between respecting the will of the majority while protecting against its power to deprive others of their rights. In the election of the President, for instance, the Constitution employs the Electoral College, whose electors are divided up by state and whose numbers are determined by the total number of representatives each state possesses (House Members plus Senators). The Electoral College thus balances the wishes of the majority against respect for the sovereignty of each state, a balance that tries to protect smaller states from their more populous neighbors and prevents the presidency from becoming the hostage of large urban centers. So too with the methods for amending and ratifying the Constitution: Both of these require the support of the majority of the American people to effect, but they organize and channel the will of the majority through individual state legislatures, which, again, respects state sovereignty.

Of course, in referring to the sovereignty of states, we are speaking of federalism, perhaps the most republican innovation of our Founders. Federalism refers to the division of power between the national and state governments in which the states get to exercise all of those powers not specifically delegated to the national government by the Constitution. The grant of this sphere of sovereign authority is a critical component of republicanism because it recognizes and protects as legitimate those diverse interests so necessary to saving our popular regime from the ravages of factionalism. In other words, federalism, by protecting the sovereignty of the individual states, ensures that the states will cultivate different spheres

26. The original manner of election to the Senate by state legislators, as required by Art. I, sec. 3 of the U.S. Constitution, removed these representatives even further from their constituents. On such indirect election, Tocqueville claims that he "will have no difficulty in admitting it; I see in indirect election the only means to put the use of political liberty within the reach of all classes of the people. Those who hope to make this means the exclusive weapon of one party, and those who fears this means, seem to me to be equally in error." Tocqueville, *Democracy in America*, p. 321.

of republican activity reflective of their particular needs, tastes, opinions, and interests, all of which may differ widely from—and even be at odds with—those of their neighbors.

As Madison points out, it is precisely the proliferation of communities bound by such different needs, tastes, opinions, and interests that keeps the American republic from falling prey to the vices that tore apart ancient democracies. As factions multiply, they necessarily become smaller in size, making it harder for any one faction, or even a small coalition of factions, to act on unjust intentions before more moderate and virtuous fellow citizens can organize a resistance. Through the innovation of federalism, the republican architects of our *political* order set up the dynamics for a republican *social* order that would, through its very diversity, mitigate the effects of unjust majority factions and provide a bulwark against a creeping equality of conditions. And this is where the principle of representation and the argument for a large and populous nation come together. Only a large and populous nation can supply the conditions necessary for many factions. But such a nation, so long as it is popularly based, can only be effectively governed as a representative republic, not as a direct democracy.

As Madison makes clear in *Federalist* No. 10, the effort to eliminate factional differences out of a desire to decrease tension is a fool's errand. While American politics would do well to soften the sharp polarization that characterizes contemporary politics, the oft-stated desire to overcome all such partisan divisions by creating an elusive political unity would be exceedingly dangerous. Such a unity is not only at odds with the differences that define political reality, it is at odds with justice; its attainment would require nothing less than the minority's sacrifice of its liberty. This means that one should not hope to eliminate, for instance, the different and unequal distribution of private property on the basis of which men form factions and which so thoroughly influences their sense of justice. Nor should attempts be made to eliminate the formal pillars of republicanism noted above, mechanisms that promote and protect diversity and prevent the voice of the majority from being the only voice in American politics.

## The Egalitarian Danger of American Democracy

Today, the wisdom behind the balance struck by the Founders through the institutions of our Constitution is either largely forgotten or derided outright. The result of such forgetfulness is that we find ourselves in increasing peril of succumbing to the limitless regard for equality that already animates many partisans of democracy and that the Founders had hoped to moderate.

Our love of democracy links contemporary America to its ancient Athenian predecessor, whose citizens were themselves fanatical about preserving their access to political power. But Athens, democratic though it was, was still rife with social and political hierarchies. In their private and public lives, distinct economic, social, and sexual classes and categories—all with different rights, responsibilities, and privileges—existed alongside the political equality enshrined by the democratic regime. The Athenians never thought to extend the political principle of equality to anything else. But in America, equality it is not just left to political power; all aspects of human life fall under the homogenizing influence of our addiction to egalitarianism. Indeed, the democratic assault on our Constitution's republican character does not begin its attack politically. It begins much more subtly, gradually replacing our taste of and appreciation for distinctions of any kind—be they within our familial, educational, civic, or religious lives—with a demand, more powerful by the day, for an equality of outcome.[27]

Today, this is reflected in the participation trophies handed out at youth sporting events where everyone "wins" a trophy regardless of whether their team won or lost—that is, when the parents and coaches even bother to keep score. After all, acknowledging and thus discriminating between winners (who get the trophies and the accolades that follow from their victory) and losers (who do not get such rewards) appears to be an affront to the fundamental equality that defines all individuals under this regime. In order to spare the losers from the unflattering experience of losing, our attachment to equality of conditions makes it impossible for anyone to win. While it has become acceptable at times to criticize the culture of self-esteem that has saturated primary and secondary education, the American commitment to this view of equality remains as deep and as powerful as when Tocqueville diagnosed it in the 1830s. That commitment continues to define the majority opinion that rules over American political, economic, social, and cultural life.

As Tocqueville observed, the corrosive effects of democratic egalitarianism begin with the social, familial, and religious "forms" that distinguish human beings from each other. By "forms," Tocqueville means those customs, ceremonies, and hierarchies that set human beings apart from one another and regulate their interactions. Americans encounter these forms or hierarchies in their schools, family rituals, religious observances, and all social and civic interactions. These forms are built on distinctions or

27. "There is nothing, in my opinion, that merits our attention more than the intellectual and moral associations of America....[They] are as necessary as the political and industrial ones to the American people, and perhaps more." Tocqueville, *Democracy in America*, p. 902.

inequalities, for instance, between students and teachers, children and parents, young and old, citizen and police, and congregation and priest, and they prescribe codes of behavior for the parties involved. They set expectations for them, clarifying who is to command and who is to obey, who is to speak and who is to listen. And in some cases, they dictate the consequences of failing to observe and uphold them. In other words, forms establish roles and limits that preserve educational, social, familial, and religious differences.

Yet Tocqueville sees that among democratic citizens, these forms "excite their scorn and often their hatred"[28] because men "who live in democratic countries do not easily understand [their] utility...; they feel an instinctive disdain for them."[29] The acidic effects of this egalitarian imperative on the forms that long defined social life in America are clear. Democratic habits, an ethic of familiarity, and egalitarian social, fiscal, and educational policies have erased any meaningful differences between the sexes; denied the special place reserved under the law for the traditional family; replaced procreation with the equalizing power of "choice" as the basis of marriage; flattened economic inequalities between the rich and the poor; treated good and bad students as equals; and dissolved the difference between citizen and foreigner. As for religion, especially its Judeo-Christian form, democratic mockery of it and its preoccupations with the soul has long pushed this elevating resource to the sidelines of American life.

At every step, the demand for ever more equality homogenizes the social differences so necessary to our political liberty. And this "temperament," Tocqueville notes, which a democratic people "bring to political life, sets them against forms which slow or stop them each day in some of their desires."[30] The perpetuation of the *political institutions* designed to delineate and separate powers from each other at both the national and state levels requires that we understand the functions and reasons for those forms, without which we cannot respect or revere them.[31] It is in the absence of this understanding that we witness increasing efforts on behalf of national referenda in America to do away with the moderating effects of representation, to override the limits on majoritarianism imposed by federalism, and to bypass the distinctive interests and needs of our states.

28. Ibid., p. 1270.
29. Ibid., p. 1270.
30. Ibid., p. 1270.
31. On the need for and significance of such reverence, see Abraham Lincoln's 1838 speech "The Perpetuation of Our Political Institutions," also known as his Lyceum Address.

And we see a similar disrespect or ignorance of republican purposes in the progressive effort to extend or preserve the use of the ballot initiative in the name of more democracy against state legislatures who, in curbing the reach of such a measure, seek to recover their representative and deliberative powers.

Unfortunately, these basic civics lessons, once available to almost any schoolchild, are woefully missing from American high schools and universities.[32] And this ignorance of and distaste for political forms does not just plague America's youth, who, when they *do* recognize our republican institutions, increasingly reject them as outmoded, unrepresentative, and unresponsive, and who, as a result, seek non-republican alternatives to satisfy their populist desires.[33] This even infects our political leaders. In their embrace of term limits (to restore more electoral control to the people), or their desire to eliminate the filibuster and expand the size of the Supreme Court, Members of the U.S. Congress exhibit a kind of egalitarian mania. They would freely dismiss the forms and practices that organize political behavior at the federal level and allow our representatives to carry out responsibly their political charges on behalf of the American people. This egalitarian zeal even weakens party hierarchies within Congress, as newly elected Members, like those in the Tea Party a decade ago or "The Squad," publicly wrestle with their leadership for legislative control, tossing aside the traditional deference afforded more seasoned party Members as an unacceptable delay to the fulfillment of their desires.

The republican form most popularly attacked today, however, is the Electoral College. In the only truly national election under our Constitution, that of the President, America's Founders designed several features to ensure that this election would not be merely democratic. By channeling the national will through state legislatures and state elections, our Founders tried to ensure that the selection of the nation's chief executive would reflect the interests of the community as a whole and not just the passions of a handful of large urban centers. Our system (arguably the most innovative feature of the new constitution) recognizes as legitimate the differences

32. In 2008 and 2011, the Institute for Humane Studies conducted civic literacy tests for over 28,000 college students. The results of these tests indicated that "the college educated were less civically engaged, less civically knowledgeable, and more liberal than those without a college education. In fact, self-education in regards to civics and American history trumps a college education in terms of leading to civic engagement." Christian Tappe, "American Idiots: A Tale of Two Civic Literacy Studies," March 22, 2011, *Washington Examiner*, https://www.washingtonexaminer.com/american-idiots-a-tale-of-two-civic-literacy-studies (accessed April 30, 2020).

33. Sean Kates, Jonathan M. Ladd, and Joshua A. Tucker, "New Poll Shows Dissatisfaction with American Democracy, Especially Among the Young," Vox, October 31, 2018, https://www.vox.com/mischiefs-of-faction/2018/10/31/18042060/poll-dissatisfaction-american-democracy-young (accessed April 8, 2020).

between different regions of the country and provides them with the electoral avenues for expressing and preserving those differences. This is the heart of republican self-government.

And yet today the effort to circumvent this aspect of our presidential system proceeds apace. Under the banner of making "every vote count," the National Popular Vote Interstate Compact (NPVIC)[34] "compels" the state legislatures that have passed it into law to give their slate of electors to the candidate who received the most votes nationwide regardless of how the majority of the people in that state voted. The NPVIC thus circumvents the republican effects of the Electoral College. As with national referenda, it rejects the sovereignty of the states, the legitimacy of their differences, and the view that such differences merit special electoral avenues and protections. In the name of "making every vote count," the NPVIC denies to voters the right to think that the different vistas afforded by our country's regional diversity might offer new and valuable perspectives on our country's welfare. The only voice that counts is that of the majority. In silencing those outside the majority, it advances the equality of conditions in America.

Given that America's Founders developed numerous non- and counter-majoritarian institutions to mitigate the rule of unchecked majorities, how does all of this happen? How can a country so consciously dedicated to republican principles become so addicted to democracy that it reduces the former to the latter? Tocqueville declares that the "social state of the Americans is eminently democratic";[35] and the "very essence of democratic government is that the dominion of the majority be absolute; for in democracies, nothing outside the majority can offer resistance."[36] In America, this nearly god-like deference to the majority stems in part from the "theory of equality applied to minds."[37] Tocqueville writes that the "moral dominion of the majority is based in part on the idea that there is more enlightenment and wisdom in many men combined than in one man alone, more in the number than in the choice of legislators."[38]

The logic at work in the heart of modern democracy here is deceptively simple. All human beings are fundamentally equal: When it comes

34. Currently, 15 state legislatures and the District of Columbia, representing 196 electoral votes, have joined this "compact." "National Popular Vote," https://www.nationalpopularvote.com/ (accessed March 3, 2020). That states whose electoral fortunes will be harmed by joining the NPVIC have done so without opposition or even much public discussion, testifies to the power of our unreflective commitment to egalitarianism.
35. Tocqueville, *Democracy in America*, p. 75.
36. Ibid., p. 403.
37. Ibid., p. 404.
38. Ibid., p. 404.

to knowing how we ought to live our lives, no single individual possesses more wisdom than anyone else. This equality and the claim on which it rests are moral imperatives of modern democracy. To reject or question them is to court not merely error, but vice; it is to risk the moral opprobrium of one's fellow citizens. As such, these imperatives must be accepted without question by democracy's partisans. Once they are accepted, it follows that the truth about any question of political significance must reside with the majority. For if all minds are equal, then the view held by the majority of individual minds is most likely the correct one; the individual by himself has no grounds on which he can question it.

Of course, citizens in democracy do recognize that some individuals are smarter than others. But this generous exception tends to be limited to the kind of rarified knowledge supplied by advanced education and training in the physical and technological sciences. In the contemporary democratic view, those who possess more technical knowledge and expertise than others in these fields (reflected in their appropriate credentials of course) are owed obedience on matters related to their expertise. But such "obedience" has implications for our common social and political lives. And as the experience with COVID-19 shows, "experts" can often disagree and the so-called scientific consensus on a given issue can drastically change, sometimes quite rapidly, bringing with it vacillations in policy. In these cases, the democratic approach to intellect finds itself increasingly incapable of evaluating conflicting policies advocated by those whose knowledge and training they admittedly lack. And this is because the democratic theory applied to minds does not recognize a hierarchy of human knowledge in which scientific expertise is governed and regulated by prudential political judgments, themselves drawn from an understanding of the political good.

Because republicanism does not simply defer to the views of the majority, it is better positioned to appreciate the political wisdom made available by non- and counter-majoritarian sources. In preserving these sources and in its respect for the moral and intellectual inequalities that define political reality, republicanism makes possible a more capacious intellectual platform whereby the public good can come into view in light of which we can evaluate the policy implications of competing scientific findings. Republicanism embraces the intellectual inequality that is so anathema to modern democracies.

But republicanism in America has a difficulty countering the logic of modern democracy. The logic of modern democracy does not just help identify wherein lies the "truth." It takes its original moral command regarding the equality of individuals and amplifies it, creating in the process a new and outsized moral power whose axioms cannot be challenged. For once you

accept the moral equality of all men as individuals, and once you agree that the majority of equally capable minds added together equals the truth, then the majority view necessarily assumes a new and towering moral bearing. Whereas the equality of individuals in its original meaning prevented one man from ruling over others, keeping everyone free from the oppression of one another, the adding up of those individual wills into a majority creates an entirely new power, one that is justly allowed to rule over anyone and everyone, especially those who do not share its views. Ironically, what it would zealously deny to one man, modern democracy freely gives to the majority. Through this sleight of hand, the majority becomes the "all."

Democracy in America thus works by a bizarre kind of political math in which the process of adding up individual wills doesn't issue in a "sum" but a "product"; that is, democracy uses arithmetic to *multiply*. And yet how it does this, how modern democracy uses arithmetic to do the job of multiplication, is never accurately explained by partisans of democracy. In many cases, this subtle shift is not even acknowledged, let alone reflected on, even by those theorists of modern democracy who populate the academy today.[39] And this blind-spot to democracy's conflation of "the many" with "the all" is made all the more inexcusable by the majority's uneven record on human rights in American history, from its original support of slavery, to its opposition of women's rights to vote, to its reluctance to embrace the civil rights movement, among others. In other words, the consensus of the majority today, which is so ready to denounce all of those injustices committed and embraced by earlier democratic majorities, continues to promote the view that the will of the majority should be the supreme locus of political legitimacy. In the face of clear historical iniquities perpetrated or supported by a majority of American citizens, the defenders of majoritarianism do not rethink their commitment to the infallibility of the majority.

Unfortunately, American democracy does not cultivate within its citizens the kind of character willing to stand against the majority. As a result, the principle of equality so deeply cherished by the majority is never examined with care. To be sure, America today suffers from a profoundly polarized

39. Perhaps the most visible example of the effort to rationalize democratic majorities can be found among defenders of deliberative democracy, an academic discipline that seeks to ground the legitimacy of majority rule through the deliberative processes by which democratic individuals form majorities. The foundations of this approach were laid by John Rawls in his *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971) and *Political Liberalism* (New York: Cambridge University Press, 1993), and by Jürgen Habermas's *A Theory of Communicative Action: Reason and the Rationalization of Society,* Vol. 1, trans. by Thomas McCarthy (Boston, MA: Beacon Press, 1985). Subsequent influential defenses of this valorization of majority rule can be found in the work of Amy Gutman and Dennis Thompson, *Democracy and Disagreement* (Cambridge, MA: Harvard University Press, 1996); Joseph M. Bessette, *The Mild Voice of Reason: Deliberative Democracy and American National Government* (Chicago: University of Chicago Press, 1994); and Seyla Benhabib, "Toward a Deliberative Model of Democratic Legitimacy," in *Democracy and Difference: Contesting the Boundaries of The Political*, Seyla Benhabib, ed. (Princeton: Princeton University Press, 1996).

politics. There is no shortage of debate over economic, racial, and gender inequalities, no absence of "wars" over abortion or same-sex marriage or immigrant rights. But, as intense as they may be, when viewed from the perspective of our foundational principles, these disagreements are epiphenomenal. They do not get at the common principles that Americans cherish and accept unthinkingly. No one today seriously questions the value of democratic equality or whether the will of the majority should rule. Those who do manage to question the judgment of the majority frequently find themselves "canceled," that is, publicly shunned and professionally silenced. To the extent that we publicly disagree with one another then, our disagreements revolve around means and implementation; we fight over the proper meaning of equality and how to achieve it (not its fundamental goodness or desirability) or over how to register and effect the majority's wishes (not whether majorities should rule). Not even those with the greatest incentive to criticize the majority, the losers of elections in America, do so. These men and women will blame anyone or anything else—the media, their opponents, the economy, their staffs, even themselves—for their losses before thinking of criticizing the wisdom and good will of the American majority.

As a result of all of this, the majority is allowed to live in a state of perpetual self-adoration.[40] It recognizes no power above it with the authority to correct it.[41] As Tocqueville writes, democratic citizens "have an ardent, insatiable, eternal, invincible passion for equality; they want equality in liberty, and if they cannot obtain that, they still want equality in slavery. They will suffer poverty, enslavement, barbarism, but they will not suffer aristocracy"—or inequality.[42] And because the limits of human nature make it impossible to raise everyone up to the highest level (most human beings cannot become a Socrates, a Newton, a Mozart), the desire for equality can only be satisfied by bringing everyone down.[43] Again, Tocqueville notes that:

> in the human heart a depraved taste for equality is also found that leads the weak to want to bring the strong down to their level and that reduces men to preferring equality in servitude to inequality in liberty.[44]

40. Tocqueville, *Democracy in America*, p. 419.
41. "So men who live during these times of equality are not easily led to place the intellectual authority to which they submit outside and above humanity they will readily scoff at new prophets and that they will want to find the principal arbiter of their beliefs within the limits of humanity and not beyond." Tocqueville, *Democracy in America*, p. 717.
42. Ibid., p. 878.
43. This insight is captured with marvelous clarity and humor in the 1961 short story "Harrison Bergeron" by Kurt Vonnegut.
44. Tocqueville, *Democracy in America*, pp. 89–90.

For such a people,

> liberty is not the principal and constant object of their desire; what they love with undying love is equality; they rush toward liberty by rapid impulses and sudden efforts, and if they miss the goal, they resign themselves; but without equality nothing can satisfy them, and rather than lose it, they would agree to perish.[45]

If unchecked, these passions, so strongly animating a democratic people, can destroy the republican institutions that are its remaining hopes to maintain its political liberty.

## What Is Next and What Are We to Do?

As Americans seem to increasingly embrace the notion that our country and its institutions need to become more democratic to fulfill the promise of the Constitution, more efforts to extend the principle of equality to all aspects of American social and cultural life can be expected. The drive to eliminate all racial, gender, and economic inequalities will be felt more keenly, and the culture wars over immigrant rights, same-sex marriage, and identity politics will continue to deepen, as advocates for greater equality hunt for new differences that they can rally around in order to crush.

For example, progressives are waging even greater efforts to emancipate children—the final frontier in the cause of equality—from the oppressive strictures of their parents and family life so that children can live their lives as the fully authentic selves they supposedly conceive themselves to be. And in American higher education, *the* principle of differentiation, the one distinguishing good students from bad, high achievement from low, is coming under attack in the name of greater equality. Daniel Markovits, the Guido Calabressi professor of law at Yale University, thus calls for universities to free themselves from "the meritocratic inequality that now ensnares them," so they can "pursue whatever values they hold dear, crafting admissions standards that favor community service, or academic scholarship, or hard-work, or a thousand other virtues. The elite would become less exclusive, but much more free."[46]

45. Ibid., pp. 89–90.
46. Daniel Markovits, "American Universities Must Choose: Do They Want to Be Equal or Elite?," *Time*, September 12, 2019, https://time.com/5676174/universities-equality-eliteness/ (accessed April 6, 2020).

And with this cultural push for more equality, we can expect to see more vocal attacks on all of those instruments designed to temper the will of the majority, to inject greater deliberations into our decisions, and to preserve the distinctive voices and interests of the American people. The efforts to eliminate the Senatorial filibuster, to impose term-limits on Members of the U.S. Congress, to push for more referenda at the state and national level, and, of course, to abolish or circumvent the Electoral College will thus continue apace. We are also likely to see a push to increase voter participation in communal decisions by greater use of technology. Various forms of digital democracy, or e-democracy as it is sometimes called, are already used by democratic countries throughout the West for everything from filing taxes to making communal budgetary decisions to voting in national referenda and elections. And given that the current pandemic is not likely the last we will face, we can expect to see digital democracy advocated as the publicly responsible way to effectively express the electoral will of the people. While critics have pointed out the numerous dangers posed by this use of technology, its "democratic" defenders have responded that many of these problems can be addressed through increased governmental control over social media and regulation of the internet.

Those concerned with defending America's republican character and the liberties it makes possible can take some solace in the fact that many of the resources necessary to defend our political institutions are already at our disposal. And Tocqueville, who first diagnosed the equality of conditions that threatens our republic, highlighted those fundamental aspects of American life critical to maintaining our republican freedom.

According to Tocqueville, the preservation of our freedom from the tyranny of a democratic majority requires, among other things, the taste for freedom and self-government that comes from experiences such as jury duty and participation in local civil associations, robust religious belief, and the maintenance of the traditional family. Of course, resurrecting these in the midst of our egalitarian excesses requires cultivating once again an appreciation for difference and inequality, and chiefly an inequality of intellect that is at the heart of republicanism and anathema to pure or direct democracy.

If we fail to cultivate this respect for intellectual superiority, then any efforts to defend republican forms, like the filibuster or the Electoral College, or to promote voluntary associations or defend vibrant religious practice critical to our freedom, will be the political equivalent of "whack-a-mole."

Of course, cultivating this taste requires an encounter with the kind of thought that is freed from our egalitarian distortions. That means that

Americans, and younger Americans especially, need to be exposed to literature that is neither modern nor democratic. Tocqueville highlights the virtues of the kind of "aristocratic literature" found among the ancient Greek and Roman authors, such as Plutarch, whom he read closely, or Polybius, Cicero, and Livy, whom members of our founding generation read. Such authors, Tocqueville tells us, "always demonstrated an admirable art and care in details; nothing in their works seems done in haste or by chance; everything is written for connoisseurs, and the search for ideal beauty is shown constantly."[47] These "special qualities" can "serve marvelously to counterbalance our particular defects."[48]

How can such "aristocratic literature" counterbalance our particularly democratic defects? It is not about making democratic citizens of all stripes more lettered or more schooled in the arts of rhetoric. It is about cultivating the kind of republican character that only comes from the peculiar thoughtfulness made possible by such literature. In other words, our contemporary egalitarian ethos, in seeking to apply a single, uniform view of justice to all aspects of American social, familial, religious, economic, and political life, approaches inequality and difference as if they were problems in need of permanent solution. The imposition of ever more equality as a "one-size-fits-all" answer to the constantly shifting needs of political life thus approaches political challenges as though they were algebraic equations: problems that can be settled once-and-for-all so that we can move on to bask in the "sunlit uplands" of our perfectly egalitarian community.[49]

But America's Founders understood that the demands of political liberty and the realities of political life do not admit of such settled utopianism. In fact, the heterogeneous character of justice, as Aristotle showed, would require a much more flexible political order, one capable of addressing and managing the constantly shifting needs, passions, and interests of its distinctive parts, such that any solution it might devise would only constitute an incomplete and temporary remedy. In other words, informed by their own experience with both practical politics and the "aristocratic literature" of the Western political tradition, the authors of the Federalist Papers understood that there could be no perfect or permanent solution to the constant demands that political justice and liberty make of a republican citizenry.

47. Tocqueville, *Democracy in America*, pp. 816-817.

48. Ibid., p. 817.

49. For a wonderful treatment of the problems posed by this "algebraic" approach to human and political problems and the role played by the "Great Books" of the Western intellectual tradition in remedying that problem, see Leon Kass's chapter "The Aims of Liberal Education: On Seeking Truth," in his *Leading a Worthy Life: Finding Meaning in Modern Times* (New York: Encounter Books, 2017).

What such men did have, and what we need today, is less of an algebraic approach to politics and more of an intellectual disposition capable of living with uncertainty and irresolution, a disposition that is at home with the persistence of political problems and questions. The kind of thoughtfulness and disposition developed by the "aristocratic literature" to which Tocqueville alludes produces the sober temperament necessary to our republican government. The artistry of this literature resists the crass effort to reduce its insights to simple axioms, and its fidelity to human nature reminds us of the limits to what can be achieved in political life. Of course, the job of preserving and perpetuating the intellectual inequality of "aristocratic literature" falls to our colleges and universities. Given the contemporary decline of the humanities in the American academy, where the serious study of such literature used to be found, pessimism about the prospects of recovering a healthy respect for the intellectual inequality so necessary to republican freedom might well be justified. But given what is at stake—"a republic, if we can keep it," to paraphrase Benjamin Franklin's legendary quip—the fight must go on.

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